



DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket No. 140814669-4669-01]

Notice of Foreign Availability Assessment: Anisotropic Plasma Dry Etching Equipment.

AGENCY: Bureau of Industry and Security, Department of Commerce

ACTION: Notice of Initiation of a Foreign Availability Assessment and Request for Comments.

SUMMARY: This notice is to announce that the Bureau of Industry and Security (BIS) is initiating a foreign availability assessment pursuant to section 5(f) of the Export Administration Act of 1979, as amended (EAA). BIS's Office of Technology Evaluation (OTE) will oversee the assessment of the foreign availability in China of anisotropic plasma dry etching equipment. BIS is also seeking public comments on the foreign availability of this equipment in China.

DATES: Comments must be received by **[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments by any of the following methods:

- Email: EtchComments@bis.doc.gov. Include the phrase “Plasma Dry Etch FA Study” in the subject line;
- On paper to Orestes Theocharides, Office of Technology Evaluation, Bureau of Industry and Security, U.S. Department of Commerce, Room 1093, 1401 Constitution Avenue, N.W., Washington, D.C. 20230, or his email at orestes.theocharides@bis.doc.gov. Include the phrase “Plasma Dry Etch FA Study”;
or
- Fax to (202) 482-5361. Include the phrase “Plasma Dry Etch FA Study”.

FOR FURTHER INFORMATION CONTACT: Gerard Horner, Director, Office of Technology Evaluation, Bureau of Industry and Security, Department of Commerce, Washington, D.C. 20230, Telephone: (202) 482-2078; email: gerard.horner@bis.doc.gov.

SUPPLEMENTARY INFORMATION:

Background

Section 5(f) of the Export Administration Act of 1979, as amended (EAA), authorizes the Secretary of Commerce to conduct foreign availability assessments to examine and reevaluate the effectiveness of U.S. dual-use export controls on certain items that are controlled for national security reasons under the Export Administration Regulations (EAR). The Bureau of Industry and Security (BIS) has been delegated the responsibility of conducting these assessments and compiling a final report for the Secretary’s review

and consideration when issuing a final foreign availability determination. Part 768 of the EAR sets forth the procedures related to foreign availability assessments. BIS is publishing this notice to announce the initiation of an assessment and to request public comments on certain aspects of the item under review.

Foreign Availability Assessment

On behalf of the Secretary, BIS has initiated an assessment in response to a foreign availability claim received from the Semiconductor Equipment and Materials International (SEMI) industry association. The SEMI claim asserts the foreign availability of anisotropic plasma dry etching equipment in China from Chinese sources. The etching equipment in China is allegedly designed or optimized to produce critical dimensions of 65 nm or less; *and* within-wafer non-uniformity equal to or less than 10% 3σ measured with an edge exclusion of 2 mm or less.

Items with these capabilities are currently controlled in the U.S. for national security reasons under Export Control Commodity Classification Number (ECCN) 3B001.c on the Commerce Control List (Supplement No. 1 to Part 774 of the EAR). U.S. controls do not allow this item to be exported to China without a license. This type of semiconductor etching equipment is used in the production process of a variety of dual-use semiconductor devices such as flash memories, microwave monolithic integrated circuits, transistors, and analog-to-digital-converters. These devices are suitable for use in a variety of both civil and military applications that include different types of radars, point-to-point radio communications, microprocessors, cellular infrastructure, and satellite communications.

The SEMI claim asserts that anisotropic plasma dry etch equipment of comparable quality to those subject to control under 3B001.c are available-in-fact from Chinese sources in sufficient quantities to render the U.S. export control of the etch equipment ineffective. BIS has reviewed the SEMI claim and determined that it has sufficient evidence to assess whether or not foreign availability of this etch equipment from Chinese sources exists. Therefore, BIS is initiating a foreign availability assessment of anisotropic plasma dry etching equipment designed or optimized to produce critical dimensions of 65 nm or less; *and* within-wafer non-uniformity equal to or less than 10% 3σ measured with an edge exclusion of 2 mm or less. Upon completion of the assessment, BIS will submit its findings to the Secretary of Commerce, who in turn will issue a final determination for the Department. The final determination will be published in the Federal Register.

Request for Comments

To assist in assessing the foreign availability, described above, of this anisotropic plasma dry etch equipment, BIS is seeking public comments and submissions that relate to the following information:

- product names and model designations of anisotropic plasma dry etch equipment that are made in China and that are comparable to the U.S. anisotropic plasma dry etch equipment designed or optimized to produce critical dimensions of 65 nm or less; *and* within-wafer non-uniformity equal to or less than 10% 3σ measured with an edge exclusion of 2 mm or less. (U.S. dry etch equipment);
- names and locations of Chinese companies that produce and export indigenously-produced anisotropic plasma dry etch equipment comparable to U.S. dry etch equipment;

- Chinese production quantities, sales, and/or exports of anisotropic plasma dry etch equipment comparable to U.S. dry etch equipment;
- data on U.S. imports of Chinese anisotropic plasma dry etch equipment comparable to U.S. dry etch equipment, and/or testing and analysis of such dry etch equipment;
- estimates of the economic impact on U.S. companies of the export controls on the U.S. dry etch equipment.

Any tangible evidence to support the above information would also be useful to BIS in its conduct of this assessment. Examples of other useful evidence are found in Supplement No. 1 to Part 768 of the EAR.

Submission of Comments

All comments may be submitted by any of the methods indicated in this notice. All comments must be in writing (either submitted by email or on paper).

BIS encourages interested persons who wish to comment to do so at the earliest possible time. The period for submission of comments will close on [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION]. BIS will consider all comments received before the close of the comment period. Comments received after the close of the comment period will be considered if possible, but their consideration cannot be assured.

BIS will accept comments or information accompanied by a request that part or all of

the material be treated confidentially because of its proprietary nature. The information for which confidential treatment is requested must be submitted to BIS separately from non-confidential information. Each page containing company confidential information must be marked "Confidential Information." Please be careful to mark only that information that is legitimately company confidential, trade secret, proprietary, or financial information with the "confidential information" designation. BIS will seek to protect such information to the extent permitted by law. If submitted information fails to meet the standards for confidential treatment, BIS will immediately return the information to the submitter.

Information submitted in response to this notice, and not deemed confidential, will be a matter of public record and will be available for public inspection and copying.

Comments received in response to this notice will be displayed on BIS's Freedom of Information Act (FOIA) Web site at <http://efoia.bis.doc.gov/>.

Dated: August 28, 2014.

Matthew Borman
Deputy Assistant Secretary
for Export Administration

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